Court No. 2

In the High Court of Uttaranchal at Nainital.

A.O. No. 21 of 2004.
(F.A.F.O.(Old) No. 1030 of 1997)

Lalit Kumar S/o Surat Singh,
R/o Village Resham Mazri, P.O.Doiwala,
District-Dehradun.

..... Appellant/claimant.

Versus

(1)Motor Accident Claims Tribunal
(II Addl. District Judge), Dehradun.
(2)U.P.State Electricity Board,
Through the Executive Engineer,
Hydel (GD), Dakpathar, Dehradun,
(3)The New India Insurance Company Ltd.,
Pt. Devi Dutt Marg, Vikas Nagar,
(4)Dharam Singh S/o Sri Moti Prasad,
R/o C-478, Yamuna Colony, Dakpathar,
Dehradun.

.....Respondent/Opp.parties.

Sri Pramod Belwal, learned counsel for the appellant/claimant,
Sri T.A. Khan, learned counsel for the respondent No. 3.

.....

Dated: 20th Aug.,2004.

Hon'ble P.C. Verma,J.
Hon'ble B.S. Verma, J.

This appeal has been preferred by the injured claimant /appellant under Section 173 of the Motor Vehicles Act, 1988 for enhancement of the amount of compensation against the judgment and order dated 27.08.1997 made by Motor Accident Claims Tribunal, Dehradun *(hereinafter referred to as the Tribunal)* in Motor Accident Claim Case No. 401 of 1993.

2- Brief facts giving rise to this appeal are that on 14.08.1993, at 9.00 a.m. the claimant-Lalit Kumar was going from Dehradun to Selakui by scooter alongwith Gajendra Singh. The claimant himself with moderate speed was driving that scooter. When they reached at the curve of Selakui bridge, truck registration No. UTL 889, who was coming from Sahaspur to Dehradun, hit the scoorists due to which the claimant sustained injuries and he fell down on the road. The Truck was being driven by Opp.party No.3 rashly and negligently. The claimant also alleged that due to the injuries received in this accident his right leg was amputated in Batra Hospital, Delhi. The claimant was B.Sc., B.Ed. and was aged 27 years at the time of accident. Due to this accident his career has been spoiled. He filed the claim petition for Rs. 11,70,000/- as compensation against the opposite parties.

3- The opposite parties Nos. 1 to 3 have contested the claim petition by filing their separate written statements. On the pleadings of the parties, the learned tribunal has framed the following issues:-

(1) *Whether the accident did occur on 14.08.1993 at 09.00 a.m. due to rash and negligence of vehicle No. UTL 889 ? If so, its effect ?*

(2) *Whether no accident occurred from vehicle No. UTL 889 as alleged by the opposite parties?*

(3) *Whether the Opp.party No.2 is no liable to pay any compensation as alleged in Paras 29, 30, & 31 in its written statement?*

(4) *Whether the driver of vehicle No.UTL 889 is necessary party and whether the petition is bad for non-joinder of party?*

(5) *Whether the claimant is entitled to get any compensation? If so, what amount and from which of the party?*

4- The learned Tribunal decided all the issues in favour of the claimant and decreed the claim petition for Rs. 1,50,000/- alongwith interest at the rate of 12% per annum from the date of petition till the date of payment against Opp.party No.2-Insurance Company.

5- The claimant has challenged the award of learned Tribunal on the ground that he has received 60% disability in this accident and the amount of compensation awarded is miserable and is not proper. We have gone through the entire material on record and perused the judgment. The Tribunal while deciding issue Nos. 3 & 5 jointly gave its finding that the petitioner is support of his evidence filed certificate issued by Chief Medical Officer, Dehardun paper No.24-B which shows that the disability is 60%. The claimant also filed final bill of the expenses incurred on his medical treatment of Rs. 87,902/- of Batra Hospital, New Delhi which is paper No.32-B on record. Besides this, the claimant has filed cash memos for purchasing medicines. There are no signatures of issuing authority on these cashmemos while they are party of the bill which has been submitted by paper No.32-B. In these circumstances, it is not believed that these cashmemos are genuine. Due to these circumstance, it cannot be believed that the claimant has incurred one & half lac rupees on his treatment. However, even then if it is assumed the claimant would have spent maximum Rs. 1 lac on his treatment and keeping in view the facts and circumstances and due to injuries received in the accident his leg from the knee has to amputate the amount of award is just and proper. We find that the learned Tribunal has not committed any error in holding that the claimant is entitled to get Rs. 1,50,000/- as compensation.

6- The appeal filed by the appellant-claimant has no force and is hereby dismissed. The order of the Tribunal dated 27.8.1997 is affirmed. There shall be no order as to costs.

(B.S. Verma,J.) **(P.C. Verma, J.)**

P.Singh